



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
NATURAL RESOURCES COMMISSION
LANSING



February 9, 2004
RESUBMITTED: March 8, 2004

Memorandum to the Natural Resources Commission:

SUBJECT: Double-Crested Cormorant Pilot Study

Authority:

The Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, authorizes the Director and the Commission to issue orders to manage animals in this state.

Discussion and Background:

In November 2003, the U.S. Department of the Interior, Fish and Wildlife Service (FWS), published the final regulation allowing certain agencies, including state agencies responsible for fish and wildlife management, to establish local cormorant control programs to protect public resources.

This Order defines the means and methods by which double-crested cormorants or their eggs may be taken in Michigan. "Take" under the Wildlife Conservation Order (WCO) includes both killing and harassing. The WCO already allows protection of private property, through nonlethal means, from nuisance animals not listed as threatened or endangered.

The Order identifies parameters under which harassment or killing can take place. Cormorants may be harassed using non-lethal means when they are doing damage or about to do damage to public fish resources.

The killing of cormorants or destruction of their eggs will be allowed under a control activity conducted by the State and submitted for review to the FWS.

Several organizations and individuals have filed a suit seeking an injunction against the FWS and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, to implement the rule as finalized. Should an injunction be issued, the Department will repeal those portions of the Order that are invalidated.

This Order also clarifies that English sparrows, feral pigeons, and starlings can be taken by hunting, and opossum, weasels, ground squirrels, and red squirrels may be taken by hunting or trapping year around except within state park and recreation areas from April 1 to September 14.

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On February 24, 2004, a wolverine (*Gulo gulo*) was positively identified in Huron County, Michigan. For several years the wolverine was listed as “extirpated” under Michigan’s endangered species regulations. In 1999 the wolverine along with the bison, woodland caribou, and prairie chicken were removed from the extirpated list. This order permanently includes the wolverine as a protected animal in the state of Michigan.

Recommendation:

This order was submitted for information only at the March 2004 meeting of the Natural Resources Commission. This item appeared in the March 22, 2004, Calendar and is eligible for approval on April 2, 2004. We are now recommending that it be acted upon at this meeting.

Rebecca A. Humphries, Chief
Wildlife Division

James Dexter, Acting Chief
Fisheries Division

Alan Marble, Acting Chief
Law Enforcement Division

George E. Burgoyne, Jr.
Resource Management Deputy

I have analyzed and discussed these recommendations with staff and concur as to matters over which the Natural Resources Commission has authority.

George E. Burgoyne, Jr.
Acting for the Director

WILDLIFE CONSERVATION ORDER

Amendment No. 4 of 2004

Under the authority of sections 40107 and 40113a, Act No. 451 of the Public Acts of 1994, as amended, being sections 324.40107 and 324.40113a of the Michigan Compiled Laws, the Natural Resources Commission and the Director of the Department of Natural Resources ordered that effective April 2, 2004, the following sections of the Wildlife Conservation Order shall read as follows:

9.1 Permitted acts; certain species.

Sec. 9.1. (1) English sparrows, feral pigeons, and starlings may be taken by hunting statewide year around except within state park and recreation areas from April 1 to September 14. Opossum, weasels, ground squirrels, and red squirrels may be taken by hunting and trapping statewide year around except within state park and recreation areas from April 1 to September 14.

(2) Mute swans may be taken as provided by a federal depredation permit if the federal depredation permit is countersigned by a state wildlife biologist. A state wildlife biologist shall not countersign a federal depredation permit if the federal depredation permit allows a mute swan to be released back into the wild in this state. A countersigned federal permit shall be a federal-state depredation permit. A person issued a federal-state depredation permit shall be considered a person issued a damage and nuisance animal control permit as described by sections 5.50 and 5.51 of this order and shall take and dispose of mute swans only as provided by the federal-state depredation permit.

(3) A bat may be taken whenever there is any reason to believe the bat was involved in a bat-human or bat-domestic animal exposure to rabies or other health hazard. Bats taken under this subsection shall not be held in captivity except for temporary holding of the animal at the request or recommendation of a physician or public health official for public health reasons. Bats held in captivity for public health reasons shall be humanely euthanized. Except for threatened or endangered species, or as otherwise provided by this order, bats may be taken:

- (a) When creating a damage or nuisance problem on privately-owned property.
- (b) Incidental to normal forest management activities occurring on public or private lands.
- (c) Incidental to closure of an abandoned mine as a result of public safety concerns.
- (d) Incidental to demolition of buildings or other structures.

(4) Double-crested cormorants and their eggs may be taken only as follows:

(a) Double-crested cormorants may be harassed without a permit by nonlethal means to deter or prevent damage to private property or to public fishery resources using such devices as noise makers or scare devices and other recognized and recommended means of preventing damage which do not kill, harm, capture, trap, or collect animals.

(b) Double-crested cormorants may be taken and their eggs destroyed or oiled by department employees and designated agents of department employees at times and by manners identified through a state breeding colony or local breeding population control action which has been submitted to the United States fish and wildlife service.

9.3 Protected animals; unlawful acts.

Sec. 9.3. (1) Moose, wolverine, and all birds not defined as game, except those listed in section 9.1, shall not be taken at any time.

(2) Mute swans, double-crested cormorants, and bats shall not be taken at any time except as specified in section 9.1.

Issued this 2nd day of April, 2004.

Approved as to matters over which the Natural Resources Commission has authority.

Keith J. Charters, Chairman
Natural Resources Commission

Approved as to matters over which the Director has authority.

George E. Burgoyne, Jr.
Resource Management Deputy
Acting for the Director